

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

&

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

MONDAY, THE 10TH SEPTEMBER 2007 / 19TH BHADRA 1929

WP(C).No. 17838 of 2004(S)

(OA.932/2003 OF CENTRAL ADMINISTRATIVE TRIBUNAL,ERNAKULAM BENCH)

PETITIONERS:

1. UNION OF INDIA,
REPRESENTED BY SECRETARY TO THE GOVT. OF INDIA,
MINISTRY OF DEFENCE, NEW DELHI.
2. THE CHIEF OF NAVAL STAFF,
NAVAL HEADQUARTERS, NEW DELHI.
3. THE DIRECTOR OF LOGISTICS SUPPORT,
NAVAL HEADQUARTERS, NEW DELHI.
4. THE FLAG OFFICER COMMANDING-IN-CHIEF
SOUTHERN NAVAL COMMAND, KOCHI.

BY ADV. SRI.P.PARAMESWARAN NAIR,ASST.S.G,
ADV. SRI.T.P.M.IBRAHIM KHAN.

RESPONDENTS:

1. P.C.PRABHAKARAN, S/O. LATE SIVARAMAN,
ASSISTANT STOREKEEPER, MATERIALS ORGANIZATION,
NAVAL BASE, SOUTHERN NAVAL COMMAND, KOCHI.
2. V.V.MOHANAN, S/O. LATE T.V.GOPALAN,
ASSISTANT STORE KEEPER, BASE VICTUALLING YARD,
NAVAL BASE, SOUTHERN NAVAL COMMAND, KOCHI.

W.P.(C). NO.17838/2004:

- 3. A.M.PATHROSE, S/O. LATE K.P.KURIAN,
ASSISTANT STORE KEEPER, MATERIALS ORGANIZATION,
NAVAL BASE, SOUTHERN NAVAL COMMAND, KOCHI.**
- 4. M.C.ANTONY, S/O. CHACKO,
ASSISTANT STORE KEEPER, MATERIALS ORGANIZATION,
NAVAL BASE, SOUTHERN NAVAL COMMAND, KOCHI.**
- 5. THE CENTRAL ADMINISTRATIVE TRIBUNAL,
REPRESENTED BY THE REGISTRAR,
CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM.**

BY ADV. SRI. M.A. SHAFIK.

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 10/09/2007,ALONG WITH W.P.(C). NO. 17839/2004,THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:**

W.P.(C). NO.17838/2004:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE O.A. 932/2003 ALONG WITH ANNEXURES FILED BY THE RESPONDENTS 1 TO 4 BEFORE THE R.5.

EXT.P.2: COPY OF THE ORDER IN 19/11/2003 IN O.A. 932/2003 OF THE C.A.T. ERNAKULAM BENCH.

EXT.P.3: COPY OF THE REVIEW APPLICATION NO. 25/2003 IN O.A. NO. 932/2003 FILED BY THE PETITIONERS BEFORE THE C.A.T., ERNAKULAM BENCH.

EXT.P.4: COPY OF THE ORDER DTD. 15/04/2004 IN REVIEW APPLICATION NO. 25/2003 IN O.A. NO. 932/2003 OF THE C.A.T. ERNAKULAM BENCH.

RESPONDENT'S EXHIBITS: NIL.

//TRUE COPY//

prv.

K.BALAKRISHNAN NAIR &
T.R.RAMACHANDRAN NAIR, JJ.

W.P.(C) NOS. 17838 & 17839/2004-S

Dated 10th September, 2007.

JUDGMENT

Balakrishnan Nair, J.

W.P.(C) No.17838/04:

The petitioners are the respondents in O.A. No.932/2003 before the Central Administrative Tribunal, Ernakulam Bench. The applicants before the C.A.T., who are respondents 1 to 4 herein, are Store-keepers. They were engaged initially on daily wage basis from 27.8.1987, 29.9.1986, 16.1.1989 and 27.8.1987 respectively. They were regularly appointed on various dates between 1991 and 1993. Later, by order dated 13.11.1995, they were regularised with effect from 2.1.1989, 27.3.1991, 5.9.1989 and 2.1.1989 respectively. While considering the claim of respondents 1 to 4 under the assured Career Progression Scheme, their service with effect from the said dates were not reckoned. The petitioners took into account their service with effect from the date they were originally regularised between 1991 and 1993. So, the respondents herein approached the

C.A.T., raising the claim to reckon their service with effect from the date their regularisation was given retrospective effect, that is, with effect from 2.1.1989, 27.3.1991, 5.9.1989, 2.1.1989 respectively. They claimed payment of the upgradation benefits with 18% interest.

2. When the O.A came up for hearing before the C.A.T., the learned Senior Central Government Standing Counsel did not contest the claim of respondents 1 to 4, except the rate of interest claimed by them. It was agreed to release the benefits due to them with 6% interest. The relevant portion of the judgment reads as follows:

“2. When the application came up for hearing, the learned counsel for the respondents Mr.C.Rajendran, SCGSC, stated that the respondents do not wish to contest the claim of the applicants excepting on the question of interest at 18% per annum and that similar applications had been disposed of granting interest at 6% and this OA may also be disposed of accordingly.”

In the light of the above quoted submission, the O.A was allowed and the respondents therein, who are the writ petitioners herein, were directed to grant the benefits under the ACP Scheme, taking into account their regularisation with retrospective effect. It was also ordered to release the financial benefits with 6% interest till the date of payment. The writ petitioners filed a review application before the C.A.T., feeling aggrieved by the direction to pay 6% interest. But, the R.A was dismissed, holding

that no grounds are made out warranting review of the order. The original order of the C.A.T is produced as Ext.P2 and the order in the review application is produced as Ext.P4. This writ petition was filed challenging those orders.

3. The main ground of attack against those orders was that the C.A.T has not granted interest in many cases. Only in three cases interest was granted and the same is under challenge before this Court. The financial commitment will be huge and so, the claim for interest cannot be allowed, it is submitted. It is also pointed out that these orders may engender further claims for interest from similarly placed persons.

4. We heard the learned counsel for the respondents also. We find that Ext.P2 order has been passed based on the submission of the learned Senior Central Government Standing Counsel. In the review application there is no ground taken to the effect that the the learned Senior Central Government Standing Counsel has not given any such consent or that he has done it without instruction. So, we feel that the ground urged before us cannot be pressed into service, to judicially review Exts.P2 and P4. Ext.P2 is an order passed on the consent of the learned counsel for the writ petitioners. The finding of the Tribunal that no ground has been made out in the review application to review that order also does not suffer from any

infirmity, warranting interference under Article 226 of the Constitution of India. Only in three cases interest has been awarded. So, no serious prejudice is caused to the writ petitioners. In the result, the writ petition fails and it is dismissed.

W.P.(C) No.17839/2004:

5. In this case also, the award of interest at 6% for the financial benefits alone is under challenge. The O.A was allowed as per Ext.P2 order. The review application was dismissed by Ext.P4 order. The respondents herein are similarly placed like the respondents in W.P.(C) No.17838/2004. Here also those orders are impugned on identical grounds. So, we are of the view that the judgment in the above case will govern this case also. Accordingly, this writ petition is also dismissed.

K.BALAKRISHNAN NAIR, JUDGE.

T.R.RAMACHANDRAN NAIR, JUDGE.

Nm/